

REMARKS

Claims 1, 11, 15, 25, and 29 are pending in this application.

Applicant has amended claims 1, 15, and 29, and has canceled claims 2-8, 12, 13, 16-22, 26, and 27 (claims 9, 10, 14, 23, 24, and 28 were previously canceled). These changes do not introduce any new matter.

Cancellation of Non-Elected Subject Matter

Applicant has canceled claims 2-8, 12, 13, 16-22, 26, and 27, which are directed toward non-elected species. Applicant reserves the right to pursue claims directed toward the non-elected species in one or more timely filed divisional applications.

Claim Objection

In response to the objection to claim 1, Applicant has amended claim 1 to correct the informality noted by the Examiner. Accordingly, Applicant requests that the objection to claim 1 be withdrawn.

Rejections Under 35 U.S.C. § 103

Applicant respectfully requests reconsideration of the rejection of claims 1, 15, and 29 under 35 U.S.C. § 103(a) as being unpatentable over *Inoue* (US 6,097,836) in view of *Horikami* (US 5,263,098). As will be explained in more detail below, the combination of *Inoue* in view of *Horikami* would not have rendered the subject matter defined in independent claims 1, 15, and 29, as amended herein, obvious to one having ordinary skill in the art.

Applicant has amended each of independent claims 1, 15, and 29 to specify the calculating of “a degree of similarity between the pixel value histogram and a predetermined reference histogram *representing a backlit image*.” Support for this change can be found in Applicant’s specification at, for example, Paragraphs [0132] and [0139] and Figure 21(c).

The *Inoue* reference discloses an image processing system. In particular, the *Inoue* reference discloses as follows:

a) the shadow region brightness value is extracted from the histogram for brightness data (see column 13, line 47 to column 14, line 6);

b) “the operator specifies the backlight correction amount” (column 14, lines 7-8);

c) “converting a backlight correction amount G to the γ value requires to prepare a table...” (column 14, lines 32-45);

d) the backlight correction table is generated by use of the shadow region brightness value and the γ value (see column 14, line 45 to column 15, line 28); and

e) “the backlight correction table thus obtained is stored as the lookup table (LUT 1300 shown in FIG. 13)” (column 15, lines 29-30).

In view of the foregoing, the lookup table (LUT) depends on the shadow region brightness value (i.e., the image data) and is not predetermined. Also, the LUT shows the relationship between the input brightness and the output brightness (see Figures 12 and 13) and does not show a histogram. This LUT is used for color-converting of all the pixel values without being compared to the histogram (see column 15, lines 30-32). In this manner, the shadow region brightness value extracted from the histogram is used to generate the LUT. However, the shadow region brightness value is not compared to a predetermined value or a predetermined histogram. Thus, the *Inoue* reference does not disclose (or suggest) at least the following features of the claimed subject matter:

1) calculating a degree of similarity between the pixel histogram and a predetermined reference value (histogram); and

2) the second judgment according to the degree of similarity whether or not to execute the backlight adjustment processing.

The *Horikami* reference discloses an object recognition apparatus. In particular, the *Horikami* reference discloses as follows:

a) “it is determined at step S6 that the object 14 is present in the partial area 10a”
(column 6, lines 18-19);

b) “it is determined at step S7 that the object 14 is not present in the partial area 10a”
(column 6, lines 19-21);

c) “the above processing from step 1 to step 8 is repeated till data process of the final partial area 10g is completed” (column 6, lines 25-27); and

d) “the shape of the object 14 is evaluated with reference to a truth table expressing object presence patterns” (column 6, lines 28-30).

In view of the foregoing, the disclosure of *Horikami* relates to determining whether the specific object is present in the partial area or not, and *does not relate* to an image quality adjustment (backlight adjustment) for various images. As such, one having ordinary skill in the art would not been motivated to combine the *Horikami* reference with the *Inoue* reference in the manner proposed by the Examiner.

Moreover, even if the *Inoue* and *Horikami* references were to be combined in the manner proposed by the Examiner, neither the *Inoue* reference nor the *Horikami* reference discloses (or suggests) the claimed feature that the similarity relates to a predetermined histogram representing a backlit image. Thus, for at least this reason, the combination of the *Inoue* and *Horikami* references would not have resulted in a device and method that includes each and every feature of the presently claimed subject matter. Consequently, the combination of the *Inoue* and *Horikami* references would not have rendered the presently claimed subject matter obvious to one having ordinary skill in the art.

Accordingly, independent claims 1, 15, and 29, as amended herein, are patentable under 35 U.S.C. § 103(a) over the combination of *Inoue* in view of *Horikami*.

Applicant respectfully requests reconsideration of the rejection of claims 11 and 25 under 35 U.S.C. § 103(a) as being unpatentable over *Inoue* in view of *Horikami*, and further

in view of *Tretter* (US 6,463,173 B1). Claim 11 depends from claim 1, and claim 25 depends from claim 15. The *Tretter* reference does not cure the above-discussed deficiencies of the combination of *Inoue* in view of *Horikami* relative to the subject matter defined in independent claims 1 and 15, as amended herein. Accordingly, claims 11 and 25 are patentable under 35 U.S.C. § 103(a) over the combination of *Inoue* in view of *Horikami* and *Tretter* for at least the reason that these claims depend from claims 1 and 15, respectively.

Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 1, 11, 15, 25, and 29, as amended herein, and submits that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP057.CIP).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, L.L.P.



Peter B. Martine
Reg. No. 32,043

710 Lakeway Drive, Suite 200
Sunnyvale, California 94085
Customer Number 25920